

Message Text

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FM SECSTATE WASHDC

TO ALL DIPLOMATIC AND CONSULAR POSTS

CINCLANT FOR POLAD

CINCPAC FOR POLAD

AMEMBASSY SUVA BY POUCH

USINT BAGHDAD BY POUCH

AMEMBASSY ATHENS BY POUCH

AMEMBASSY ANKARA BY POUCH

AMEMBASSY NICOSIA BY POUCH

USINT ALGIERS BY POUCH

XMT AMEMBASSY CARACAS

AMEMBASSY SUVA

USINT BAGHDAD

AMEMBASSY ATHENS

AMEMBASSY ANKARA

AMEMBASSY NICOSIA

USINT ALGIERS

C O N F I D E N T I A L STATE 179102

DAKAR PASS BANJUL

FOL REPEAT CARACAS 7788 SENT ACTION STATE AUG 14, 1974

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C O N F I D E N T I A L CARACAS 7788

FROM USDEL LOS

E.O. 11652: GDS

TAGS: PLOS

SUBJECT: LOS-MID-SESSION ANALYTICAL SUMMARY

1. DESPITE GOOD START ON ORGANIZATIONAL ISSUES. MULTIPLYING COMPLEXITIES OF NEGOTIATION IN MOVING FROM GENERAL OUTLINES TO SPECIFIC TEXTS, AND PREVALENT ASSUMPTION THAT THERE WILL BE NO SUBSTANTIVE RESULTS FROM THIS SESSION, HAVE HAD EFFECT OF MAKING MORE REMOTE WILLINGNESS TO MAKE DECISIONS ON KEY ISSUES. ONE CONSEQUENCE HAS BEEN EMERGENCE OF TACTICAL MANEUVERS AND INJECTION OF NEW AND DIFFICULT ISSUES IN COMMITTEE WORK. NEVERTHELESS, WORK ON TEXTS CONTINUES, AND THERE SEEM TO BE NO EFFORTS TO DIVERT THIS INTO GENERAL DEBATE. ALTHOUGH CONSIDERATION OF SOME FORM OF FINAL STATEMENT HAS TEMPORARILY ABATED, IT IS EXPECTED THAT AN EFFORT BY COMMITTEE CHAIRMEN OR CONFERENCE PRESIDENT TO PRODUCE SOME FORM OF DOCUMENT WILL BE MADE BEFORE FINAL WEEK.

2. IN COMMITTEE I, LDOS ARE RALLYING AROUND THEIR DRAFT ON ARTICLE 9, "WHO SHALL EXPLOIT THE AREA," WITH THE POSSIBILITY THAT THEIR ALTERNATIVE B PROVIDING FOR INCLUSIVE RIGHT OF EXPLOITATION BY THE ENTERPRISE AND WITHOUT DEFINITIONS OF CONDITIONS OF EXPLOITATION MAY BE PUSHED TO A VOTE. SOVIETS HAVE QUERIED US ON INTENTIONS OF INVOKING RULE 37 (COOLING OFF PERIOD) IF SUCH A MOVE MATERIALIZES.

3. IN COMMITTEE II, PROGRESS OF WORK HAS BEEN SLOW, PERHAPS INEVITABLY. IN THIS COMMITTEE, MORE THAN ANY OTHER, ALL STATES SEE HARD ECONOMIC AND SECURITY ISSUES AT STAKE. WHILE THERE IS VERY WIDESPREAD SUPPORT FOR 12-MILE TERRITORIAL SEA AND 200-MILE ECONOMIC ZONE, NEGOTIATION ON DETAILS OF ECONOMIC ZONE REMAINS DIFFICULT. CHAIRMAN AGUILAR HAS MANAGED TO RETAIN CONFIDENCE OF COMMITTEE AND HAS SETTLED ON WORK METHOD WHICH IS LEADING TO FORMULATION OF TREATY TEXT. COMMITTEE II HAS BEEN SEVERELY HANDICAPPED BY NOT HAVING TEXT SUCH AS WAS PROPOSED BY INTERNATIONAL LAW COMMISSION FOR 1958 LOS CONFERENCE. ON OTHER HAND, POLITICAL WILL TO MAKE SUBSTANTIVE CONCESSIONS HAS NOT BEEN EVIDENT. GENERAL FEELING SEEMS TO BE THAT ISSUES WILL BE FRAMED IN ALTERNATIVE TREATY TEXT FORMULATION WORKING PAPERS AND WILL BE AVAILABLE AT NEXT SESSION IN TIME FOR TRADE-OFFS AND PUTTING TOGETHER PACKAGE DEAL.

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4. IN COMMITTEE III, DISCUSSIONS ON POLLUTION AND SCIENTIFIC RESEARCH CONTINUE WITH SOME PROGRESS IN INFORMAL DISCUSSIONS WITH CANADA TO FIND MEANS OF ACCOMMODATING CANADIAN INTERESTS IN PROTECTION OF THE ARCTIC WITH U.S. VIEWS ON INTERNATIONAL STANDARDS. SCIENTIFIC RESEARCH NEGOTIATIONS APPEAR FINALLY TO BE

MAKING SOME PROGRESS. THE INFORMAL WORKING GROUP "ELABORATED" GENERAL PRINCIPLES AND AGREED TO DISCUSS MAJOR TRENDS. IF AGREEMENT IS REACHED ON TRENDS PROPOSED BY CHAIRMAN, WORKING GROUP WILL HAVE FOUR PROPOSITIONS FOR DISCUSSION: CONSENT REGIME, QUALIFIED CONSENT REGIME, NOTIFICATION SYSTEM, AND TOTAL FREEDOM OF SCIENTIFIC RESEARCH. IN DRAFTING COMMITTEE UNDER NETHERLANDS, WE NOW HAVE WORKING SUPPORT OF ABOUT 15 DELS. IT IS EVIDENT, HOWEVER, THAT FOR MOST STATES REAL PROGRESS ON BOTH POLLUTION AND SCIENTIFIC RESEARCH IS TIED TO OUTCOME OF ECONOMIC ZONE DISCUSSIONS IN COMMITTEE II, ALTHOUGH FOR CANADA REVERSE MAY BE TRUE.

5. TACTICAL SITUATION: FOR SUMMARY OF SOME OF THE FACTORS AFFECTING PRESENT SITUATION, SEE WEEKLY ANALYTICAL SUMMARY OF JULY 25 (CARACAS 7083). A. WITH RESPECT TO THE INABILITY OF AFRICAN STATES TO MOVE AS A RESULT OF THE COASTAL LANDLOCKED SPLIT AND THEIR CURRENT OBLIGATION TO ABIDE BY OAU DECLARATION, USDEL HAS BEEN ADVISED THAT THERE WILL BE AN OAU MEETING FOLLOWING CARACAS SESSION TO RECONSIDER POSITIONS IN LIGHT OF CARACAS NEGOTIATIONS. MEANWHILE DEMANDS OF LANDLOCKED STATES HAVE HAD TACTICAL EFFECT OF PUSHING COASTAL STATES TO MORE EXTREME JURISDICTIONAL CLAIMS TO RESIST POSSIBLE OBLIGATION RATHER THAN GENERAL REFERENCE TO NEED TO ACCOMMODATE LANDLOCKED DEMANDS. AFRICAN PARTICIPATION IN JURIDICAL EXPERTS (EVENSEN) GROUP IS BOTH EXTREME AND TENUOUS, WITH TANZANIA TAKING VERY EXTREME STANDS.

B. CONVERSATIONS OF DELEGATES WITH U.S. SENATORS PROBABLY HEIGHTENED EXPECTATION THAT U.S. WILL SHORTLY MOVE UNILATERALLY TO 200-MILE FISHING ZONE THUS AFFECTING OUR ABILITY TO NEGOTIATE EXCEPTIONS TO COASTAL STATE JURISDICTION OVER VARIOUSLY PERCEIVED "SPECIAL SITUATIONS" AND ON ELEMENTS OF U.S. FISHERIES POSITIONS WHICH SOME COASTAL STATES OPPOSE, INCLUDING ACCESS FOR FOREIGN FISHING TO ASSURE FULL UTILIZATION AND SPECIAL TREATMENT FOR TUNA.

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C. ESSENCE OF TACTICAL SITUATION NOW IS THE DEGREE AND EXTENT OF COASTAL STATE JURISDICTION WITHIN THE ECONOMIC ZONE, AND, WITH REGARD TO DEEP SEABED CONCEPTUAL CONFLICT, OVER WHETHER THE "ENTERPRISE" SHOULD HAVE EXCLUSIVE RIGHTS TO EXPLOIT THE COMMON HERITAGE AND ESTABLISH ITS OWN RULES AND CONDITIONS. DISCUSSION OF TERRITORIAL SEA, STRAITS, AND ECONOMIC ZONE IS ACCOMPANIED BY TACTICAL MANEUVERS SUCH AS THOSE PREVIOUSLY REPORTED WITH RESPECT TO DISTINCTION BETWEEN PASSAGE OF MILITARY AND COMMERCIAL VESSELS, AND INTRODUCTION THIS WEEK OF ISSUE OF MILITARY USES OF CONTINENTAL SHELF. BEYOND THESE BASIC ISSUES ARE THOSE RELATED TO DEMANDS OF LANDLOCKED STATES FOR ACCESS TO THE SEA AS AN INTERNATIONALLY ASSURED RIGHT, THE QUESTION OF DEFINITION OF ARCHIPELAGOES, STATUS OF ISLANDS, AND DIFFICULTY IN RESOLVING FISHING ISSUES WITH RESPECT TO SALMON AND TUNA.

6. THE DECISION IS YET TO BE MADE ON WHEN THE NEXT SESSION WILL BE HELD IN 1975 AND WHETHER THERE WILL BE ONE LONG SESSION OR TWO SHORTER SESSIONS. KNOWLEDGE THAT 1975 IS LIKELY TO BE LAST CHANCE FOR AN AGREEMENT WILL OBVIOUSLY EFFECT PRESSURES ON GOVERNMENTS TO MAKE THE POLITICAL ASSESSMENTS NECESSARY TO RESOLVE TECHNICAL ISSUES AND CONFLICTING INTERESTS.

7. THERE IS SOME LIKELIHOOD OF INCREASING TEMPO IN LAST FEW WEEKS, WITH MEETINGS SCHEDULED BETWEEN U.S. AND COASTAL STATE GROUP AND BETWEEN U.S. AND AFRICANS HEADED BY SENEGAL. WHILE TREATY IS CLEARLY NOT LIKELY TO RESULT, THERE MAY BE MOVEMENT AS REALIZATION SPREADS OF CONSEQUENCES OF CARACAS FAILURE. USDEL IS DELIBERATELY PAINTING SITUATION HERE AS WORSE THAN IT IS, IN LIGHT CONGRESSIONAL PRESSURE AND NEED TO GET THINGS MOVING FASTER.
STEVENSON

UNQUOTE. KISSINGER

NOTE BY OC/T: POUCHED ABOVE ADDRESSEES.

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